



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking to Implement  
the California Renewables Portfolio Standard  
Program.

Rulemaking 04-04-026

(Filed April 22, 2004)

**REPLY OF THE CALIFORNIA WIND ENERGY ASSOCIATION AND THE GREEN  
POWER INSTITUTE TO RESPONSES TO THE PETITION FOR  
MODIFICATION OF DECISION 05-12-042**

**CALIFORNIA WIND ENERGY ASSOCIATION**

Nancy Rader  
Executive Director  
California Wind Energy Association  
Telephone: 510-845-5077  
Email: [nrader@calwea.org](mailto:nrader@calwea.org)

**THE GREEN POWER INSTITUTE**

Gregory Morris, Director  
*a program of the Pacific Institute*  
2039 Shattuck Ave., Suite 402  
Berkeley, CA 94704  
ph: (510) 644-2700  
fax: (510) 644-1117  
Email: [gmorris@emf.net](mailto:gmorris@emf.net)

Joseph M. Karp  
Karleen M. O'Connor  
Winston & Strawn LLP  
101 California Street, 39th Floor  
San Francisco, California 94111-5894  
Telephone: (415) 591-1000  
Facsimile: (415) 591-1400  
Email: [jkarp@winston.com](mailto:jkarp@winston.com)  
[koconnor@winston.com](mailto:koconnor@winston.com)  
*Attorneys for the California Wind Energy Association*

July 24, 2007

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**I. INTRODUCTION**

Pursuant to Rule 16.4(g) of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure and Administrative Law Judge ("ALJ") Simon's Ruling on the California Wind Energy Association's ("CalWEA") and the Green Power Institute's ("GPI") Motion to Expedite, CalWEA and GPI respectfully submit this Reply to Responses to CalWEA's and GPI's Petition for Modification of Decision 05-12-042 ("Petition to Modify").

Five of the eight responses to Petition to Modify support CalWEA's and GPI's proposal to include a greenhouse gas ("GHG") adder in the Market Price Referent ("MPR") determination. The three responses that object to the Petition to Modify are those of the three investor-owned utilities. Two of those three, Pacific Gas & Electric Company ("PG&E") and San Diego Gas & Electric ("SDG&E"), object more to the timing than the substance of CalWEA's and GPI's proposal. Indeed, PG&E states "PG&E acknowledges that, in the future, a GHG adder may be appropriate."<sup>1</sup>

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<sup>1</sup> Response of PG&E, p. 1.

The broad support demonstrated by consumer advocates, utilities, environmental groups, and renewable energy developers, however, confirms the overall merit of CalWEA's and GPI's proposal to include a GHG adder in the equation used to calculate the long-term MPR (10 – 20 year duration) for the RPS program. A GHG adder is appropriate, and the appropriate time is now.

## **II. DISCUSSION**

In Decision 05-12-042, the Commission acknowledged that a GHG adder for the MPR would become appropriate when GHG “policy discussions are translated into regulatory programs or other sufficiently concrete market impacts.”<sup>2</sup> The enactment of SB 1368 and AB 32 commit California to a comprehensive regulatory program that greatly limits the emissions of GHGs associated with the production of California’s electricity supply. CalWEA's and GPI's Petition to Modify details the solid legal arguments in support of the proposal for a GHG adder in the MPR. Rather than repeat those arguments in this Reply, CalWEA and GPI will address the utilities' arguments.

### **A. With Enactment of AB 32 and SB 1368, GHG Costs Are Sufficiently Quantifiable Today**

In Southern California Edison Company's ("SCE") Response to CalWEA's and GPI's Petition to Modify, SCE makes several assertions that bear correction. SCE argues that because the Commission and the California Air Resources Board ("CARB") have yet to publish final regulations pursuant to AB 32, "quantifiable impacts in the form of a GHG adder to the MPR would only be speculation."<sup>3</sup> Even after the Commission promulgates regulations, an exact “quantifiable impact” may not be immediately known because the AB 32 program is likely to be,

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<sup>2</sup> D. 05-12-042 at 48.

<sup>3</sup> SCE Response to Petition to Modify, p. 3.

in part, market-based. Any market response to this program of declining emission allowances will likely evolve in a manner that is difficult to predict at the outset.

Nevertheless, AB 32 and SB 1368 firmly entrench a statutory GHG reduction program, and the process of compliance is in motion. Retail providers in California who ignore the carbon intensity of their long-term procurement decisions today do so at their own peril. The carbon intensity of long-term generating resources is already influencing the electricity marketplace. The Commission's trigger for the inclusion of a GHG adder in the MPR has been reached.

**B. The Utilities' Argument Regarding Load-Based Caps versus Source-Based Caps Is a Red Herring.**

SCE further argues that (1) because the Commission signaled its preference for a load-based GHG emissions cap in Decision 06-02-032; and (2) the MPR applies to generating sources, that “[t]herefore, assuming the Commission adopts GHG limits based on load-base caps for LSEs, the regulations for AB 32 will never be applicable to the MPR, because no known 'out-of-pocket' expenses for conventional generation will ever be established.”<sup>4</sup> This argument is the ultimate red herring. Regardless of whether the Commission ultimately adopts a load-based cap or a source-based program,<sup>5</sup> there will be a cost to reduce the greenhouse gas emissions associated with electricity production — even with the most efficient regulatory regime in place. The Commission can estimate this cost using analytical tools that it has already adopted for other equivalent applications, as argued in CalWEA's and GPI's Opening Petition to Modify. CalWEA and GPI propose that the Commission apply those analytical tools and incorporate a GHG adder in the 2007 and subsequent MRPs.

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<sup>4</sup> SCE Response, pg. 3.

<sup>5</sup> Currently, both approaches are on the table, with SCE advocating strongly for the source-based alternative.

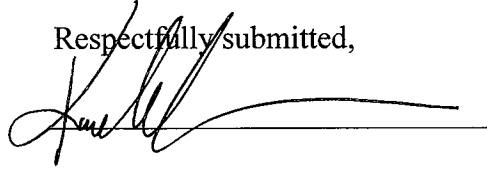
**C. CalWEA's and GPI's Petition to Modify is Limited to the Issue of Including a GHG Adder in the 2007 and Successive MPRs.**

The Center for Energy Efficiency and Renewable Technologies' ("CEERT") Response to the Petition to Modify expresses a range of concerns regarding the use of the MPR within the context of the Commission's overall RPS program. These concerns go beyond the limited purposes of CalWEA's and GPI's Petition for Modification. CalWEA and GPI share many of CEERT's concerns, particularly those of scrupulously preserving the statutory purpose of the MPR to allocate the costs of a long-term RPS project between the retail provider and the supplemental-energy payment program. CalWEA and GPI ask that the Commission consider the Petition to Modify, however, within the limited context in which CalWEA and GPI offered it. CalWEA and GPI request that the Commission add a GHG adder to the existing calculation for the determination of the MPR used for sanctioned RPS solicitations for long-term generating resources. CalWEA and GPI also respectfully request that the Commission act now so that the Commission can incorporate any GHG adder into the 2007 MPR. Finally, CalWEA and GPI request that any action taken by the Commission in response to this Petition to Modify not prejudice any future actions the Commission deems appropriate regarding the MPR and GHG regulation.

**III. CONCLUSION**

For the foregoing reasons, the CalWEA and GPI respectfully request the Commission modify Decision 05-12-042 to include a GHG adder in the annual MPR for the RPS solicitations.

Respectfully submitted,



**CALIFORNIA WIND ENERGY ASSOCIATION**

Nancy Rader  
Executive Director  
California Wind Energy Association  
Telephone: 510-845-5077  
Email: [nrader@calwea.org](mailto:nrader@calwea.org)

**THE GREEN POWER INSTITUTE**

Gregory Morris, Director  
*a program of the Pacific Institute*  
2039 Shattuck Ave., Suite 402  
Berkeley, CA 94704  
ph: (510) 644-2700  
fax: (510) 644-1117  
Email: [gmorris@emf.net](mailto:gmorris@emf.net)

Joseph M. Karp  
Karleen M. O'Connor  
Winston & Strawn LLP  
101 California Street, 39th Floor  
San Francisco, California 94111-5894  
Telephone: (415) 591-1000  
Facsimile: (415) 591-1400  
Email: [jkarp@winston.com](mailto:jkarp@winston.com)  
[koconnor@winston.com](mailto:koconnor@winston.com)  
*Attorneys for the California Wind Energy Association*

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I hereby certify that I have this day served a copy of the

***Reply of the California Wind Energy Association and the Green Power Institute to Responses  
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on all known parties to R.04-04-026 and R.06-02-012 by sending a copy via electronic mail and by mailing a properly addressed copy by first-class mail with postage prepaid to each party named in the official service list without an electronic mail address.

Executed on July 24, 2007 at San Francisco, California.

  
Rosalie Marschall

**Service List for R.04-04-026  
As of July 18, 2007**

dgulino@ridgewoodpower.com  
keith.mccrea@sablax.com  
csmoots@perkinscoie.com  
rresch@seia.org  
garson\_knapp@fpl.com  
david.saul@solel.com  
dhuard@manatt.com  
rkeen@manatt.com  
douglass@energyattorney.com  
klatt@energyattorney.com  
cathy.karlstad@sce.com  
amsmith@sempra.com  
fortlieb@sandiego.gov  
troberts@sempra.com  
GloriaB@anzaelectric.org  
thunt@cecmail.org  
Joe.Langenberg@gmail.com  
dorth@krcd.org  
jaturbu@ix.netcom.com  
pepper@cleanpowermarkets.com  
wblattner@semprautilities.com  
freedman@turn.org  
stephen.morrison@sfgov.org  
fjs@cpuc.ca.gov  
rsa@a-klaw.com  
alhj@pge.com  
ecl8@pge.com  
bill.chen@constellation.com  
jpross@votesolar.org  
bcragg@goodinmacbride.com  
jsqueri@goodinmacbride.com  
jkarp@winston.com  
ssmyers@att.net  
arno@recurrentenergy.com  
gpetlin@3phases.com  
jhamrin@resource-solutions.org  
jchamberlin@strategicenergy.com  
ralf1241a@cs.com  
jpigott@gen3solar.com  
wbooth@booth-law.com  
sherifl@calpine.com  
gmorris@emf.net  
jgalloway@ucsusa.org  
nrader@igc.org  
tomb@crossborderenergy.com  
janreid@coastecon.com  
meganmmyers@yahoo.com  
johnrredding@earthlink.net  
jweil@aglet.org  
jsanders@caiso.com

jdalessi@navigantconsulting.com  
abb@eslawfirm.com  
dcarroll@downeybrand.com  
janmcfar@sonic.net  
steven@iepa.com  
notice@psrec.coop  
ryan.flynn@pacificorp.com  
karen.mcdonald@powerex.com  
bshort@ridgewoodpower.com  
roger@berlinerlawpllc.com  
obrienc@sharpsec.com  
vsuravarapu@cera.com  
porter@exeterassociates.com  
tjaffe@energybusinessconsultants.com  
cswollums@midamerican.com  
mcollins@icc.illinois.gov  
abiecunasjp@bv.com  
pletkarj@bv.com  
jon.jacobs@paconsulting.com  
kjsimonsen@ems-ca.com  
jenine.schenk@apses.com  
chilen@sppc.com  
emello@sppc.com  
emello@sppc.com  
jgreco@caithnessenergy.com  
hyao@semprautilities.com  
rprince@semprautilities.com  
steve@energyinnovations.com  
THAMILTON5@CHARTER.NET  
jackmack@suesec.com  
case.admin@sce.com  
frank.w.harris@sce.com  
gary.allen@sce.com  
woodruijb@sce.com  
lizbeth.mcdannel@sce.com  
aabad@navigantconsulting.com  
lwrazen@sempraglobal.com  
tcorr@sempra.com  
liddell@energyattorney.com  
scottanders@sandiego.edu  
mmilner@coral-energy.com  
centralfiles@semprautilities.com  
cmanzuk@semprautilities.com  
susan.freedman@sdenergy.org  
dniehaus@semprautilities.com  
jleslie@luce.com  
imungi@energycoalition.org  
csteen@bakerlaw.com  
jleblanc@bakerlaw.com  
olsen@avenuecable.com

hal@rwitz.net  
mdjoseph@adamsbroadwell.com  
diane\_fellman@fpl.com  
Dan.adler@calcef.org  
mhyams@sflower.org  
dwang@nrdc.org  
dcover@esassoc.com  
filings@a-klaw.com  
sdhilton@stoel.com  
snuller@ethree.com  
dickerson07@fscgroup.com  
dbrockett@navigantconsulting.com  
ell5@pge.com  
jay2@pge.com  
lennyh@evomarkets.com  
nxk2@pge.com  
jonwelner@paulhastings.com  
cem@newsdata.com  
koconnor@winston.com  
judypau@dwt.com  
bobgex@dwt.com  
sho@ogradys.us  
cpuccases@pge.com  
gxl2@pge.com  
nbb2@pge.com  
vjw3@pge.com  
rwalther@pacbell.net  
procos@alamedapt.com  
keithwhite@earthlink.net  
andy.vanhorn@vhcenergy.com  
pthompson@summitblue.com  
dietrichlaw2@earthlink.net  
ramonag@ebmud.com  
mrw@mrwassoc.com  
bepstein@fablaw.com  
rschmidt@bartlewells.com  
cchen@ucsusa.org  
janice@strategenconsulting.com  
rhwisser@lbl.gov  
DCDG@pge.com  
lynn@lmaconsulting.com  
cpechman@powereconomics.com  
kswain@powereconomics.com  
sberlin@mccarthyaw.com  
davido@mid.org  
brbarkovich@earthlink.net  
rmccann@umich.edu  
demorse@omsoft.com  
cmkehrrein@ems-ca.com  
e-recipient@caiso.com

**Service List for R.04-04-026  
As of July 18, 2007**

grosenblum@caiso.com	karen@klindh.com	nil@cpuc.ca.gov
saeed.farrokhpay@ferc.gov	californiadockets@pacificorp.com	nao@cpuc.ca.gov
cpucrulings@navigantconsulting.com	kyle.l.davis@pacificorp.com	psd@cpuc.ca.gov
lpark@navigantconsulting.com	dws@r-c-s-inc.com	svn@cpuc.ca.gov
karly@solardevelop.com	castille@landsenergy.com	sed@cpuc.ca.gov
dougdpucmail@yahoo.com	ajo@cpuc.ca.gov	skorosec@energy.state.ca.us
mclaughlin@braunlegal.com	aes@cpuc.ca.gov	JMcMahon@navigantconsulting.com
dkk@eslawfirm.com	bds@cpuc.ca.gov	claufenb@energy.state.ca.us
kdw@woodruff-expert-services.com	bwm@cpuc.ca.gov	hrait@energy.state.ca.us
pstoner@lgc.org	dsh@cpuc.ca.gov	kzocchet@energy.state.ca.us
blaising@braunlegal.com	esl@cpuc.ca.gov	mpryor@energy.state.ca.us
www@eslawfirm.com	jjw@cpuc.ca.gov	rmiller@energy.state.ca.us
rroth@smud.org	jf2@cpuc.ca.gov	trf@cpuc.ca.gov
vwood@smud.org	jmh@cpuc.ca.gov	
hurlock@water.ca.gov	mrl@cpuc.ca.gov	
lterry@water.ca.gov	ner@cpuc.ca.gov	

**Via U.S. Mail:**

President Michael R. Peevey  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

ALJ Anne E. Simon  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

ALJ Burton Mattson  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Service List for R.06-02-012  
As of July 23, 2007**

cindy.sola@directenergy.com  
 dgulino@ridgewoodpower.com  
 rick\_noger@praxair.com  
 keith.mccrea@sablax.com  
 csmoots@perkinscoie.com  
 rresch@seia.org  
 lisa.decker@constellation.com  
 garson\_knapp@fpl.com  
 ej\_wright@oxy.com  
 stacy.aguayo@apses.com  
 jenine.schenk@apses.com  
 rsnichol@srpnet.com  
 david.saul@solel.com  
 chilen@sppc.com  
 rprince@semprautilities.com  
 dhuard@manatt.com  
 rkeen@manatt.com  
 bill.chen@constellation.com  
 energy@3phases.com  
 mmazur@3phases.com  
 susan.munves@smgov.net  
 douglass@energyattorney.com  
 klatt@energyattorney.com  
 pssed@adelphia.net  
 pssed@adelphia.net  
 cathy.karlstad@sce.com  
 william.v.walsh@sce.com  
 kswitzer@gswater.com  
 kswitzer@gswater.com  
 amoore@ci.chula-vista.ca.us  
 customerrelations@sel.com  
 amsmith@sempra.com  
 fortlieb@sandiego.gov  
 email@semprasolutions.com  
 troberts@sempra.com  
 hharris@coral-energy.com  
 tdarton@pilotpowergroup.com  
 tdarton@pilotpowergroup.com  
 GloriaB@anzaelectric.org  
 xplaxico@heliosenergy.us  
 lalehs101@hotmail.com  
 kerry.eden@ci.corona.ca.us  
 thunt@cecmail.org  
 Joe.Langenberg@gmail.com  
 dorth@krcd.org  
 jaturnbu@ix.netcom.com  
 pepper@cleanpowermarkets.com  
 freedman@turn.org  
 stephen.morrison@sfgov.org  
 nao@cpuc.ca.gov

theresa.mueller@sfgov.org  
 mhyams@sfgwater.org  
 ek@a-klaw.com  
 rsa@a-klaw.com  
 alhj@pge.com  
 crmd@pge.com  
 bill.chen@constellation.com  
 jpross@votesolar.org  
 bcragg@goodinmacbride.com  
 jsqueri@goodinmacbride.com  
 jwiedman@goodinmacbride.com  
 jkar@winston.com  
 mday@gmssr.com  
 jkar@winston.com  
 jeffgray@dw.com  
 sho@ograde.us  
 ssmyers@worldnet.att.net  
 gpetlin@3phases.com  
 jhamrin@resource-solutions.org  
 ECL8@pge.com  
 jchamberlin@strategicenergy.com  
 raif1241a@cs.com  
 wbooth@booth-law.com  
 sherifl@calpine.com  
 jody\_london\_consulting@earthlink.net  
 gmmorris@emf.net  
 ndesnoo@ci.berkeley.ca.us  
 clyde.murley@comcast.net  
 tomb@crossborderenergy.com  
 janreid@coastecon.com  
 johnredding@earthlink.net  
 jweil@aglet.org  
 cmkehrin@ems-ca.com  
 jsanders@caiso.com  
 jdalessi@navigantconsulting.com  
 abb@eslawfirm.com  
 www@eslawfirm.com  
 dcarroll@downeybrand.com  
 glw@eslawfirm.com  
 janmcfar@sonic.net  
 steven@iepa.com  
 ryan.flynn@pacificorp.com  
 karen.mcdonald@powerex.com  
 dhecht@sempratrading.com  
 bshort@ridgewoodpower.com  
 steven.schleimer@barclayscapital.com  
 obrien@sharpsec.com  
 vsuravarapu@cera.com  
 porter@exeterassociates.com  
 tjaffe@energybusinessconsultants.com

ralph.dennis@constellation.com  
 cswoollums@midamerican.com  
 abiecunasjp@bv.com  
 pletkarj@bv.com  
 ahendrickson@commerceenergy.com  
 jsniffen@elementmarkets.com  
 bbaker@summitblue.com  
 kjsimonsen@ems-ca.com  
 ericj@eslawfirm.com  
 emello@sppc.com  
 tdillard@sierrapacific.com  
 jgreco@caithnessenergy.com  
 elizabeth.douglass@latimes.com  
 harveyederpspc.org@hotmail.com  
 steve@energyinnovations.com  
 jackmack@suesec.com  
 David.Townley@townleytech.com  
 case.admin@sce.com  
 frank.w.harris@sce.com  
 gary.allen@sce.com  
 woodruijb@sce.com  
 lizabeth.mcdannel@sce.com  
 rkmoore@gswater.com  
 daking@sempra.com  
 lwrazen@sempraglobal.com  
 tcorr@sempra.com  
 ygross@sempraglobal.com  
 liddell@energyattorney.com  
 mshames@ucan.org  
 scottanders@sandiego.edu  
 mmilner@coral-energy.com  
 centralfiles@semprautilities.com  
 dnierhaus@semprautilities.com  
 jleslie@luce.com  
 billm@enxco.com  
 csteen@bakerlaw.com  
 jleblanc@bakerlaw.com  
 michaelgilmore@inlandenergy.com  
 olsen@avenuecable.com  
 hal@rwitz.net  
 mdjoseph@adamsbroadwell.com  
 wblattner@semprautilities.com  
 diane\_fellman@fpl.com  
 Dan.adler@calcef.org  
 dwang@nrdc.org  
 cordcover@esassoc.com  
 filings@a-klaw.com  
 sls@a-klaw.com  
 sdhilton@stoel.com  
 nuller@ethree.com

**Service List for R.06-02-012  
As of July 23, 2007**

abonds@thelen.com  
dbrockett@navigantconsulting.com  
lennyh@evomarkets.com  
lawcpuccases@pge.com  
vjw3@pge.com  
nxk2@pge.com  
jonwelner@paulhastings.com  
cem@newsdata.com  
cem@newsdata.com  
jscancarelli@flk.com  
judypau@dwt.com  
bobgex@dwt.com  
lisa\_weinzimer@platts.com  
cpuccases@pge.com  
arno@recurrentenergy.com  
ELL5@pge.com  
gxl2@pge.com  
kebd@pge.com  
S1L7@pge.com  
rwalth@pacbell.net  
procos@alamedapt.com  
keithwhite@earthlink.net  
jpigott@gen3solar.com  
andy.vanhorn@vhcenergy.com  
rick\_noger@praxair.com  
kowalewskia@calpine.com  
duggank@calpine.com  
phanschen@mofo.com  
pthompson@summitblue.com  
philha@astound.net  
dietrichlaw2@earthlink.net  
nellie.tong@us.kema.com  
ramonag@ebmud.com  
paulfenn@local.org  
mrw@mrwassoc.com  
bepstein@fablaw.com  
cwooten@lumenxconsulting.com  
rschmidt@bartlells.com  
cchen@ucsusa.org  
elarsen@rcmdigesters.com  
janice@strategenconsulting.com  
brenda.lemay@horizonwind.com  
nrader@calwea.org  
rhwis@lbl.gov  
whitney@mp2capital.com  
brian@banyansec.com  
lynn@lmaconsulting.com  
sberlin@mccarthyllaw.com  
davido@mid.org  
chrism@mid.org

dbrockett@navigantconsulting.com  
lennyh@evomarkets.com  
lawcpuccases@pge.com  
vjw3@pge.com  
nxk2@pge.com  
jonwelner@paulhastings.com  
cem@newsdata.com  
cem@newsdata.com  
jscancarelli@flk.com  
judypau@dwt.com  
bobgex@dwt.com  
lisa\_weinzimer@platts.com  
cpuccases@pge.com  
arno@recurrentenergy.com  
ELL5@pge.com  
gxl2@pge.com  
kebd@pge.com  
S1L7@pge.com  
rwalth@pacbell.net  
procos@alamedapt.com  
keithwhite@earthlink.net  
jpigott@gen3solar.com  
andy.vanhorn@vhcenergy.com  
rick\_noger@praxair.com  
kowalewskia@calpine.com  
duggank@calpine.com  
phanschen@mofo.com  
pthompson@summitblue.com  
philha@astound.net  
dietrichlaw2@earthlink.net  
nellie.tong@us.kema.com  
ramonag@ebmud.com  
paulfenn@local.org  
mrw@mrwassoc.com  
bepstein@fablaw.com  
cwooten@lumenxconsulting.com  
rschmidt@bartlells.com  
cchen@ucsusa.org  
elarsen@rcmdigesters.com  
janice@strategenconsulting.com  
brenda.lemay@horizonwind.com  
nrader@calwea.org  
rhwis@lbl.gov  
whitney@mp2capital.com  
brian@banyansec.com  
lynn@lmaconsulting.com  
sberlin@mccarthyllaw.com  
davido@mid.org  
chrism@mid.org

dbrockett@navigantconsulting.com  
lennyh@evomarkets.com  
lawcpuccases@pge.com  
vjw3@pge.com  
nxk2@pge.com  
jonwelner@paulhastings.com  
cem@newsdata.com  
cem@newsdata.com

**Via U.S. Mail:**

President Michael R. Peevey  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

ALJ Anne E. Simon  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

ALJ Burton Mattson  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

William Cronin  
Energy America, LLC  
One Stamford Plaza  
8<sup>th</sup> Floor  
263 Tresser Blvd.  
Stamford, CT 06901